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10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 STARLA BRAHAM,

13 Plaintiff,

14 v.

15 AUTOMATED ACCOUNTS, INC, a
16 Washington Corporation , and
17 MICHELLE DOE and JOHN DOE,
18 husband and wife and the marital
19 community comprised thereof.

20 Defendants.

Case No.: CV-10-385-EFS

NOTICE OF TO-BE-ADJUDICATED
CLAIMS AND AFFIRMATIVE
DEFENSES

21 COMES NOW, the Plaintiff, by and through her counsel of record Kirk D.
22 Miller of Kirk D. Miller, P.S. and submits her notice of to-be-adjudicated claims
23 and affirmative defenses, and states them as follows:
24
25

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CLAIMS AND AFFIRMATIVE
DEFENSES

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- 1 1. Whether, where no lawsuit had been filed nor any judgment obtained against
2 the Plaintiff, Defendant violated 15 USC §§ 1692e and f.
3
- 4 2. Whether Michelle Bull (referred to in Plaintiff's Complaint as "Michelle
5 Doe") is a "debt collector", as that term is defined by 15 USC§ 1692a(6).
6
- 7 3. Whether the debt that Defendants attempted to collect from the Plaintiff and
8 is the subject of this lawsuit is a "debt", as that term is defined by 15 USC
9 §1692a(5)
10
- 11 4. Whether Defendant Michelle Bull accused the Plaintiff of lying about the
12 availability of funds in her bank account, and thereby harassing her in
13 violation of 15 USC §1692d.
14
- 15 5. Whether Defendant Michelle Bull informed the Plaintiff that she and/or
16 Automated Accounts had decided to begin garnishing the Plaintiff's wages,
17 despite the fact that no lawsuit had been filed, nor any judgment obtained
18 against the Plaintiff.
19
- 20 6. Whether it is a violation of 15 USC §1692, et seq. for a debt collector
21 collecting on a consumer debt to threaten garnishment of the consumer's
22 assets when no lawsuit had been filed, nor any judgment obtained against the
23 consumer.
24
25

- 1 7. Whether the least sophisticated consumer would be imputed by law to know
2 that garnishment could not and would not be instituted prior to the
3 Defendant first having obtained a judgment against the Plaintiff.
4
- 5 8. Whether, through their actions with respect to the Plaintiff, the Defendants
6 herein violated 15 USC §§ 1692e(4),(5),(10), and 1692f.
7
- 8 9. Whether the Defendants' actions caused the Plaintiff any emotional distress
9 and, if so, the extent and damages related to the emotional distress caused by
10 the Defendants.
11
- 12 10. Whether the Defendants' threat to garnish the Plaintiff's assets caused
13 conflict, fear, and/or anxiety within her personal relationships.
14
- 15 11. Whether the Plaintiff has suffered actual damages as a result of the
16 Defendants' illegal collection communications and, if so, the extent of those
17 damages.
18
- 19 12. Whether Defendant Automated Accounts is vicariously liable for the illegal
20 acts of its debt collector employee, Michelle Bull.
21
- 22 13. Whether the Plaintiff is entitled to actual damages, statutory damages,
23 attorney's fees, and costs, pursuant to 15 USC §1692k, et seq. and, if so, the
24 amount of said damages, fees, and costs.
25

1 Dated the 30th day of December, 2011.

2
3 Respectfully submitted,

4
5 *Kirk D. Miller, P.S.*

6 /s/Kirk Miller

7 Kirk D. Miller
8 WSBA # 40025
9 Attorney for Plaintiff

10 CM/ECF

11
12 I hereby certify that on the 30th day of December, 2011, I electronically filed
13 the foregoing with the Clerk of the Court using the CM/ECF System which will
14 send notification of such filing to the following:
15

16 Thomas Milby Smith tmlby@thomasmsmithattorney.com

17 Kirk Miller kmiller@millerlawspokane.com

18
19
20 *Kirk D. Miller, P.S.*

21
22 s/Kirk D. Miller

23 Kirk D. Miller
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